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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,230	01/22/2002	Shinichi Kawamura	218335US0CONT	8868

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EXAMINER

RODEE, CHRISTOPHER D

ART UNIT

PAPER NUMBER

1756

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/051,230

Applicant(s)

KAWAMURA ET AL.

Examiner

Christopher D RoDee

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): section 112, second paragraph, rejection (see Interview Summary).  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 17-20,22,23,31-33,35,37-39 and 41.Claim(s) withdrawn from consideration: 1-16,21,24-30,34,36,40 and 42.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
10. ☐ Other: \_\_\_\_\_

**CHRISTOPHER RODEE  
PRIMARY EXAMINER**

Continuation of 5. does NOT place the application in condition for allowance because: the affidavit/declaration does not specify how the comparative example (representing Nagai Ex. 3) was prepared or tested. It appears that the comparative example prepared a photoreceptor using the same polymer as Nagai's Ex. 3 and then tested this product in the same manner as specification pages 102 and 105 but clarification is required by declarant. More importantly, the evidence is still not commensurate in scope with the claims because the claims permit as low as 5 wt % of either or both components. As discussed in the last Office action, the claims' "scope includes a 95/5 wt % ratio of either unit to the other or as little as 5 wt % of each unit and 90 wt % of other unspecified units." The evidence does not reasonably approach the end points for a two-component copolymer (the evidence addresses a two-component copolymer having 13.1% to 79.4% of the bisphenol unit and 20.6 to 86.9% of the charge transporting moiety). The evidence also does not address a three or more component copolymer as noted above. There is no reason to believe that the evidence of record shows an unexpected result for the scope of these embodiments, which are included within the scope of the claims. There is also no discussion of Nagai in the declaration or of why the evidence presented is pertinent to Nagai. The section 103 rejections are maintained.

IKW

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